

## CHAPTER SUMMARY



### Constitutional Freedoms

#### ★ CONSTITUTIONAL RIGHTS

The Constitution guarantees human rights, or fundamental freedoms, but ultimately it is the responsibility of United States citizens to ensure the strength and endurance of these rights. If citizens do not meet their responsibilities, the guarantees become meaningless, and society suffers.

The Bill of Rights, composed of the first 10 amendments, prohibits the abuse of power by the national government. The Fourteenth Amendment, ratified in 1868, prohibits the states from:

- making or enforcing laws that “abridge the privileges and immunities of citizens . . .”
- depriving “any person of life, liberty, or property without due process of law . . .”

Through a process called incorporation, the Supreme Court has ruled that the Fourteenth Amendment applies the guarantees in the Bill of Rights to state and local governments. In effect, this means that through the process of nationalization, individuals who believe a state or local government has denied them basic rights can sue in federal courts.

#### ★ FREEDOM OF RELIGION

The establishment clause of the First Amendment states that “Congress shall make no law respecting an establishment of religion.” The free exercise clause prohibits the government from unduly interfering with religious practices. The interpretation of these clauses has led to controversial Supreme Court rulings, many of them related to education. With respect to the establishment clause, the Court has:

- developed a three-part test to decide if states can give aid to parochial schools, schools operated by a church or religious group. To be constitutional, the aid must: (1) have a clear . . . nonreligious purpose; (2) neither advance nor inhibit religion; and (3) avoid “excessive government entanglement with religion”;
- found that public schools may grant students release time to attend religious instruction carried on in private facilities but not in public facilities;

- banned various forms of religious observance in public schools when they are officially sponsored. However, it has found that student-initiated and led religious clubs may use school facilities. The Equal Access Act ensured that such clubs should be just as eligible to use school facilities as other student organizations. It has also ruled that the constitutional ban on school prayer does not apply to government meetings.

The Supreme Court has interpreted the free exercise clause to mean that freedom of religion does not protect all behavior, particularly when religious practices conflict with criminal laws. In one notable instance the Court reversed itself. A 1940 decision found that students could be required to salute the flag, even if it violated their religious beliefs. In 1943 the Court ruled that such laws were an unconstitutional interference with the free exercise of religion.

#### ★ FREEDOM OF SPEECH

The Supreme Court has identified two categories of speech that are protected by the First Amendment:

- **Pure speech** Verbal expression of thoughts and opinions before an audience that has chosen to listen.

- **Symbolic speech** Sometimes called expressive conduct, symbolic speech uses actions and symbols to express opinions.

(continued)

## CHAPTER 13 SUMMARY CONTINUED

### FREEDOM OF SPEECH *(continued)*

Expressive conduct that endangers public safety, trespasses, or unnecessarily blocks traffic is not protected. In addition, the Court has ruled that government can regulate or forbid expressive conduct in unusual, narrowly defined circumstances.

The Court also has developed three doctrines that it applies when deciding whether speech has gone beyond the limits of First Amendment guarantees:

- **Clear and present danger** Speech that clearly presents an immediate danger is not protected.
- **Bad tendency doctrine** Speech that has a tendency to lead to illegal action is not protected.
- **Preferred position doctrine** Any law that limits First Amendment freedoms should be presumed unconstitutional unless the government can show that it is absolutely necessary.

Furthermore the Court has ruled that the First Amendment does not protect the following categories of speech:

- **Seditious speech** Speech intended to advocate immediate, concrete acts of violence against the government is not protected.
- **Defamatory speech** False speech that damages a person's character, or reputation is not protected.
- **Fighting words** Words so insulting that they provoke an immediate violent reaction from the listener are not protected.

The Court also has upheld the right of school officials to regulate lewd or indecent speech at school events as well as student speech in school-sponsored activities.

### ★ FREEDOM OF THE PRESS

On freedom of the press issues, the Supreme Court has ruled that:

- government may exercise prior restraint, censorship of information before it is published, only if it can show that publication would endanger the national security;
- pretrial and courtroom publicity can interfere with the right to a fair trial. Consequently it has permitted judges to bar the press from pretrial hearings if warranted. The Court also allows protective measures such as moving the location of a trial and sequestering the jury, or holding it in custody, until the trial ends;

- reporters cannot refuse to testify or surrender evidence. However, thirty states have passed shield laws designed to give reporters some means of protection against being forced to disclose "confidential information or sources";
- government can require radio and television stations to observe certain standards and can punish stations that broadcast obscene language;
- motion pictures and the Internet are protected by free-press guarantees.

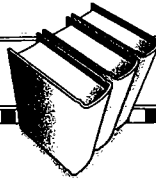
### ★ FREEDOM OF ASSEMBLY

The Constitution defines freedom of assembly as "the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The Court has interpreted this right in the following ways:

- In the interest of public order and safety, government can require demonstrators to obtain advance permission.
- Authorities may halt a demonstration to preserve order. However, they may not arrest peaceful demonstrators if the audience is the cause of the disorder.

- Protesters cannot enter facilities such as prisons without permission or hold demonstrations intended to disrupt educational instruction.
- Protesters cannot convert private property (such as malls) to their own use.
- Government may ban or limit picketing by labor unions under certain circumstances.
- The state can restrict "freedom of association"—the right to join an organization—but only if it can show that the group is making actual preparations for the use of force against the government.

# Guided Reading Activity 13-1

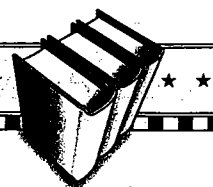


## Constitutional Rights

**★DIRECTIONS** Use the information in your textbook to complete these cause-and-effect diagrams. Think about the results, or effects, of each of the items shown below.

THE CONSTITUTIONAL RIGHTS OF AMERICANS		
<b>CAUSE</b> 	<b>CAUSE</b> 	<b>CAUSE</b> 
<b>EFFECTS</b> <div style="border: 1px solid black; height: 150px; width: 100%;"></div>	<b>EFFECTS</b> <div style="border: 1px solid black; height: 150px; width: 100%;"></div> <div style="border: 1px solid black; height: 150px; width: 100%;"></div> <div style="border: 1px solid black; height: 150px; width: 100%;"></div>	<b>EFFECTS</b> <div style="border: 1px solid black; height: 150px; width: 100%;"></div>

# Guided Reading Activity 13-2

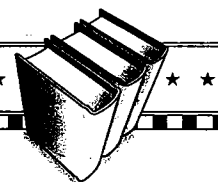


## Freedom of Religion

**★DIRECTIONS** Use the information in your textbook to match the Supreme Court case with the effect the Court's decision had on religious freedom. Write the correct letter in the space provided.

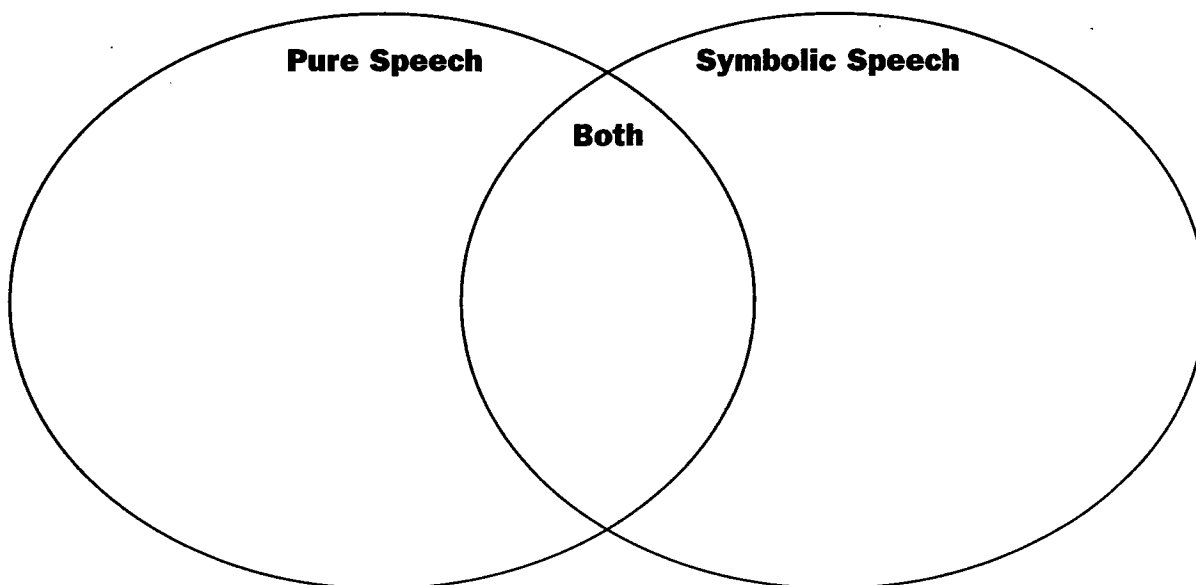
- |  |  |
|--|--|
| _____ 1. <i>Everson v. Board of Education</i>                              | A. States cannot ban teaching of evolution in public schools.  |
| _____ 2. <i>Board of Education v. Allen</i>                                | B. Schools can require students to salute the flag.  |
| _____ 3. <i>Wolman v. Walter</i>   | C. Parents can deduct tuition, books, and school transportation costs from their state income taxes.   |
| _____ 4. <i>Lemon v. Kurtzman</i>  | D. Parochial schools cannot use public school buses for field trips.   |
| _____ 5. <i>Levitt v. Committee for Public Education</i>                   | E. A state cannot create a public school district solely for Hasidic Jews.   |
| _____ 6. <i>Mueller v. Allen</i>   | F. States can require vaccinations.  |
| _____ 7. <i>Kiryas Joel v. Grumet</i>                                      | G. Public schools cannot provide school classrooms for teaching religion.  |
| _____ 8. <i>McCullum v. Board of Education</i>                             | H. Congress can set aside state laws that prohibit people from performing their religious rituals.   |
| _____ 9. <i>Zorach v. Clauson</i>  | I. States can pay for busing students to parochial schools.  |
| _____ 10. <i>Engel v. Vitale</i>   | J. Schools cannot require Bible reading or reciting the Lord's Prayer.   |
| _____ 11. <i>Abington School District v. Schempp and Murray v. Curlett</i> | K. State aid to church schools must: (1) have a clear secular, nonreligious purpose; (2) in its main effect neither advance nor prohibit religion; and (3) avoid excessive government entanglement with religion |
| _____ 12. <i>Epperson v. Arkansas</i>                                      | L. Students may have religious instruction during the school day, but not in public school classrooms.   |
| _____ 13. <i>Edwards v. Aguillard</i>                                      | M. States can provide secular textbooks to parochial schools.  |
| _____ 14. <i>Jacobson v. Massachusetts</i>                                 | N. Prayer in public schools is unconstitutional.   |
| _____ 15. <i>Wisconsin v. Yoder</i>  | O. Patriotism can be achieved without forcing people to violate their religious beliefs.   |
| _____ 16. <i>Minersville School District v. Gobitis</i>                    | P. Teaching creationism violates the establishment clause.   |
| _____ 17. <i>West Virginia State Board of Education v. Barnette</i>        | Q. A city cannot help pay for parochial schools to develop testing programs.   |
| _____ 18. Religious Freedom Restoration Act                                | R. A state cannot require Amish parents to send their children to public school beyond the eighth grade.   |

# **Guided Reading Activity 13-3** ★ ★ ★ ★ ★ ★ ★ ★ ★ ★



## **Freedom of Speech**

**★DIRECTIONS** Use the information in your textbook to complete this diagram. Similarities are written in the area in which the ovals overlap. Differences appear on the far left and far right sides of the ovals.



**★DIRECTIONS** Use the information in your textbook to match each of these Supreme Court cases with a brief summary of the case. Write the letter of the correct answer in the space provided.

- \_\_\_\_\_ **1.** *New York Times v. Sullivan*
- \_\_\_\_\_ **2.** *Bethel School District v. Fraser*
- \_\_\_\_\_ **3.** *Chaplinsky v. New Hampshire*
- \_\_\_\_\_ **4.** *Brandenburg v. Ohio*

- A.** A Ku Klux Klan leader was arrested at a rally and cross-burning when he refused to end the rally. The Court freed him, however, stating that advocating the use of force can't be forbidden unless it is directed to inciting or producing imminent lawless action and is likely to produce such action.
- B.** The Court ruled that the First Amendment does not prevent school officials from suspending students for lewd or indecent speech at school events, although the same speech would be protected outside the school building.
- C.** The Court decided that even if a newspaper story about an Alabama police commissioner was false, it was protected speech unless the statement was made with the knowledge that it was false, or with reckless regard of whether it was false or not.
- D.** The Court ruled that lewd and obscene, profane, libelous, and insulting words, which inflict injury and provoke a breach of the peace, are contrary to good order in society and are therefore not protected by the First Amendment.

Name \_\_\_\_\_ Date \_\_\_\_\_ Class \_\_\_\_\_

# Guided Reading Activity 13-4

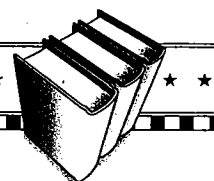
## Freedom of the Press

**★DIRECTIONS** Use the information in your textbook to complete this chart. Give the Supreme Court's current opinion on each item involving freedom of the press and cite the specific court cases involved.

THE SUPREME COURT AND FREEDOM OF THE PRESS		
	Current Opinion	Case(s)
Prior Restraint		
Fair Trials and Free Press		
Gag Orders		
Protecting News Sources		
Radio and Television		
Motion Pictures		
E-Mail and the Internet		
Obscenity		
Advertising		

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# Guided Reading Activity 13-5 ★ ★ ★ ★ ★ ★ ★ ★ ★ ★



## Freedom of Assembly

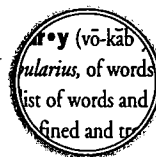
**★ DIRECTIONS** Use the information in your textbook to complete the charts related to freedom of assembly.

FREEDOM OF ASSEMBLY		
<p><b>On public property</b></p>	<p><b>On public property not open to the public</b></p>	<p><b>On private property open to the public</b></p>
Example:	Example:	Example:
<p style="text-align: center;"><b>Protections</b></p>	<p style="text-align: center;"><b>Protections</b></p>	<p style="text-align: center;"><b>Protections</b></p>
<p style="text-align: center;"><b>Limitations</b></p>	<p style="text-align: center;"><b>Limitations</b></p>	<p style="text-align: center;"><b>Limitations</b></p>

ISSUES IN PUBLIC ASSEMBLY	
Public disorder	Issues:
Picketing	Issues:
Freedom of association	Issues:

# Vocabulary Activity 13

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## Constitutional Freedoms

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### DIRECTIONS

Select the term that answers each question below. Write the correct term in the space provided.

prior restraint	sequester	seditious speech	Holocaust
shield laws	human rights	defamatory speech	gag order
parochial school	picketing	free exercise clause	pure speech

1. What term describes the fundamental freedoms of all people? \_\_\_\_\_
2. What term refers to the section of the First Amendment that prohibits government from unduly interfering with the practice of religion? \_\_\_\_\_
3. What term describes an educational institution operated by a religious group? \_\_\_\_\_
4. What is the verbal expression of thought and opinion before an audience that has chosen to listen? \_\_\_\_\_
5. What is described as urging resistance to lawful authority or advocating the overthrow of the government? \_\_\_\_\_
6. What term refers to speech that damages a person's good name, character, or reputation? \_\_\_\_\_
7. What is the censorship of information before it is published? \_\_\_\_\_
8. What word refers to holding a jury in custody until the end of a trial? \_\_\_\_\_
9. What term describes a judge's order that bars the press from publishing information about a court case? \_\_\_\_\_
10. What is the legislation giving reporters some protection against revealing sources in state courts? \_\_\_\_\_
11. What term refers to the act of patrolling an establishment to convince workers and the public not to enter? \_\_\_\_\_
12. What term describes the mass extermination of Jews and other groups by the Nazis during World War II? \_\_\_\_\_

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### DIRECTIONS

Use the following terms correctly in complete sentences. More than one term can be used in each sentence. Write the sentences on a separate sheet of paper.

heckler's veto	precedent	abridge	libel	secular
symbolic speech	nationalization	slander	establishment clause	



**Reteaching Activity** ★**Constitutional Freedoms****DIRECTIONS**

In the blank preceding Column A write the letter of the freedom with which the case is most closely associated: **R** for Religion; **S** for Speech; **P** for Press; and **A** for Assembly. Then match the statements in Column B with the case they relate to in Column A and write the letter in the space provided.

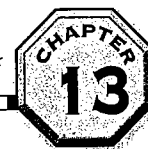
**COLUMN A  
CONSTITUTIONAL FREEDOMS**

- \_\_\_\_\_ 1. *Near v. Minnesota*
- \_\_\_\_\_ 2. *Lloyd Corporation v. Tanner*
- \_\_\_\_\_ 3. *Hazelwood School District v. Kuhlmeier*
- \_\_\_\_\_ 4. *Schenck v. United States*
- \_\_\_\_\_ 5. *Lemon v. Kurtzman*
- \_\_\_\_\_ 6. *Gregory v. Chicago*
- \_\_\_\_\_ 7. *United States v. Eichman*
- \_\_\_\_\_ 8. *State Board of Education v. Barnette*
- \_\_\_\_\_ 9. *Edwards v. Aguillard*
- \_\_\_\_\_ 10. *DeJonge v. Oregon*
- \_\_\_\_\_ 11. *Cox v. New Hampshire*
- \_\_\_\_\_ 12. *Miller v. California*
- \_\_\_\_\_ 13. *Richmond Newspapers, Inc. v. Virginia*
- \_\_\_\_\_ 14. *Engel v. Vitale*
- \_\_\_\_\_ 15. *Sheppard v. Maxwell*
- \_\_\_\_\_ 16. *Gitlow v. New York*
- \_\_\_\_\_ 17. *United States v. O'Brien*
- \_\_\_\_\_ 18. *New York Times Co. v. United States*
- \_\_\_\_\_ 19. *Yates v. United States*
- \_\_\_\_\_ 20. *Wisconsin v. Yoder*

**COLUMN B**

- \_\_\_\_\_ A. Local communities could set obscenity standards.
- \_\_\_\_\_ B. 1989 Federal Flag Protection Act is unconstitutional.
- \_\_\_\_\_ C. Amish parents could restrict schooling to eight grades.
- \_\_\_\_\_ D. set three-part test for aid to religious schools
- \_\_\_\_\_ E. Teaching creationism violates the establishment clause.
- \_\_\_\_\_ F. Schools officials can regulate student expression.
- \_\_\_\_\_ G. Groups cannot convert publicly used private property to their own use.
- \_\_\_\_\_ H. Most trials must be open to the media.
- \_\_\_\_\_ I. State governments cannot deny someone freedom of speech.
- \_\_\_\_\_ J. developed "clear and present danger" test
- \_\_\_\_\_ K. "Assembly for lawful discussion cannot be made a crime.
- \_\_\_\_\_ L. declared school prayer unconstitutional
- \_\_\_\_\_ M. An orderly protest march is protected.
- \_\_\_\_\_ N. defined the Court's censorship position.
- \_\_\_\_\_ O. set ways to limit media coverage of trials
- \_\_\_\_\_ P. Expressing the opinion that the government should be overthrown cannot be made illegal.
- \_\_\_\_\_ Q. upheld the state permit law
- \_\_\_\_\_ R. Students cannot be forced to salute the flag.
- \_\_\_\_\_ S. A three-part test can determine whether government can regulate expressive conduct.
- \_\_\_\_\_ T. Forbidding publication of the Pentagon Papers is prior restraint.

## CHAPTER SUMMARY *Activity* ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

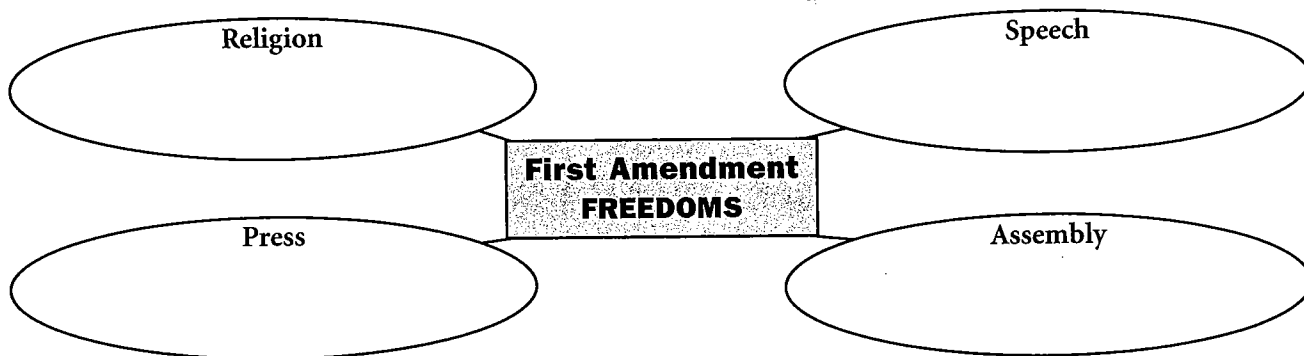


### Constitutional Freedoms

**★DIRECTIONS** In the space provided, write the word or phrase that best completes each of the following sentences.

1. The Constitution guarantees \_\_\_\_\_, or fundamental freedoms.
2. The Fourteenth Amendment applies the guarantees in the Bill of Rights to \_\_\_\_\_ and \_\_\_\_\_ governments.
3. The \_\_\_\_\_ clause of the First Amendment prohibits the government from unduly interfering with religious practices.
4. Symbolic speech is the use of \_\_\_\_\_ and symbols to express opinions.
5. \_\_\_\_\_ speech is intended to advocate immediate, concrete acts of violence against the government.
6. The term \_\_\_\_\_ refers to censorship of information before it is published.
7. \_\_\_\_\_ orders are court orders barring pretrial publication of certain types of information.
8. Government can punish television and radio stations that broadcast \_\_\_\_\_ language.
9. In the interest of public order and safety, government can require demonstrators to obtain \_\_\_\_\_.

**Organizing Information** Examine the following diagram and consider the list of phrases describing concepts and issues that are related to First Amendment freedoms. Write each item under the appropriate heading on the map.



- |                            |                             |                          |
|----------------------------|-----------------------------|--------------------------|
| • shield laws              | • clear and present danger  | • freedom of association |
| • the establishment clause | • the bad tendency doctrine | • school prayer          |
| • union picketing          | • pretrial publicity        |                          |

**Critical Thinking** Answer the following question on a separate sheet of paper.

10. What three questions would the Supreme Court consider when deciding if a state can pay for a science textbook to be used in a parochial school?